

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JUE ZHANG,

Plaintiff,

v.

SHRAGA N. GOLDBERG, M.D.,  
Defendants.

C.A. NO. 04-12735PBS

***THE DEFENDANT'S FURTHER SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF  
THE MOTION FOR COURT ORDER FOR HOMELAND SECURITY FILES***

Pursuant to the Court's instructions in the Order dated October 30, 2006, the defendant attaches another Affidavit from another expert, Patrick Connolly, M.D. (attached as Exhibit A) in further support of the Defendant's Motion to Obtain Court Orders for the file of the Office of Homeland Security.

Based on this Affidavit, as well as the Affidavit previously provided by Defense Counsel (attached as Exhibit B), as well as the reasons cited in the defendant's original Motion (which include the arguments that the information contained in the file presents an opportunity to learn about plaintiff's medical care and treatment prior to entering this country as well as examining statements made under oath), the defendant RESPECTFULLY REQUESTS the Court execute the Orders originally provided with the Motion (attached as Exhibit C).

For the Defendant,  
Shraga N. Goldberg, M.D.,  
By his attorneys,

Sidney W. Adler, BBO #012660  
Jennifer Boyd Herlihy, BBO #636815  
Adler, Cohen, Harvey, Wakeman  
& Guekguezian, LLP  
75 Federal Street, Tenth Floor  
Boston, MA 02110  
(617) 423-6674

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document  
was served upon the attorney of record for each other  
party by (hand) (mail) on 11/16/06

**EXHIBIT A**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JUE ZHANG,  
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v.

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Defendant

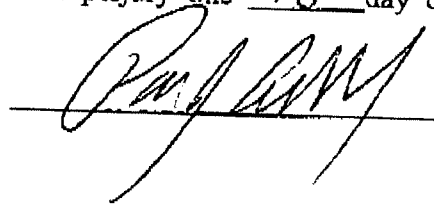
C.A. NO. 04-12735PBS

**AFFIDAVIT OF PATRICK J. CONNOLLY, M.D.**

1. My name is Patrick J. Connolly, M.D. and I am an orthopedic surgeon acting as a defense expert on behalf of the defendant, Dr. Goldberg.
2. I have reviewed all of the medical records provided to date.
3. I have requested a copy of the information provided to the Office of Homeland Security upon the plaintiff's entrance into this country be provided to me for my further review and opinion.
4. I believe it is an integral issue to explore the status of her TB at the time of her entrance into this country in 1997.
5. It is my understanding that the only information that the plaintiff had any TB tests done is her testimony that she tested positive in 1999 while at Northeastern University. However, I also understand that Northeastern University has no records of having provided a TB test to this patient and, in fact, say she provided information to the university that she had the test done (but no information if this was a positive test).
6. Therefore, it would appear that the test was done upon entrance into the country and it would be important to learn what was reported to the federal government when she arrived because of the following:
  - (1) if she had a positive test, what, if any, the treatment recommendations were at that time and if she complied with medical suggestions (which goes towards the need of a patient to participate and be responsible for their own health care needs and I believe that she would be required to follow-up with further work-up suggested and greater surveillance); and/or
  - (2) if she was treated, how was she treated and was she adequately and accurately treated i.e., the plaintiff is alleging that if she had been treated with medications she would not have required surgical intervention. Although I disagree with this opinion, and feel that she would have required surgery in any event, if it turns out the plaintiff took medication prior to the time of diagnosis and the TB still developed, it adds to the strength of my argument.

8. I would also like information on the husband's TB status at time of the because it is a core question to find out if that may be the exposure.
9. I do not know what the file will say but I expect there will be information on her medical history and her care and treatment and I would like to see it.

Signed under the pains and penalties of perjury this 16 day of November, 2006.

A handwritten signature in black ink, appearing to be "Rajiv", is written over a horizontal line.

UNITED STATES DISTRICT COURT  
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***AFFIDAVIT OF DEFENSE COUNSEL***

1. I am defense counsel of record for the defendant, Dr. Goldberg.
2. I have received a report from Jussi Saukkonen, MD, a specialist in Pulmonary and Critical Care Medicine, Allergy and Immunology and Internal Medicine.
3. His initial review and report indicates the following:

This case also represents a classic "missed opportunity" for prevention of TB disease. Assuming the plaintiff had a positive PPD test at Northeastern University in 1998 or 1999, as she reported, and/or before she entered this country as a condition of her immigration on December 31, 1997 (not yet verified), more likely than not, she would have also received a chest x-ray (the plaintiff has not provided a copy of that film or a location it was conducted). If the chest x-ray was normal, isoniazid, an antibiotic, would have been prescribed for the treatment of latent tuberculosis infection. This treatment was developed for the express purpose of preventing the progression from latent infection to tuberculosis disease, and its efficacy has been well established. If the plaintiff took isoniazid for the prescribed period of time in 1997 or 1998/1999, more likely than not, her spinal tuberculosis would have been prevented, and she would not have developed the complications of which she now complains.

Signed under the pains and penalties of perjury this 27<sup>th</sup> day of June, 2006.

Jennifer Boyd Herlihy

**EXHIBIT B**

**EXHIBIT C**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
JUE ZHANG,

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Defendants.  
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) C.A. NO. 04-12735PBS  
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**ORDER FOR INSPECTION AND COPYING OF RECORDS**

It is hereby ordered that the Keeper of Records for the U.S. Department of State, Office of Information Programs and Services, A/ISS/IPS/RL, U.S. Department of State, SA-2, Washington, D.C. 02522-8100, or the person or persons in charge of these records, shall furnish to Jennifer Boyd Herlihy, Esq., of Adler, Cohen, Harvey, Wakeman & Guekguezian, LLP, 75 Federal Street, Floor 10, Boston, MA, 02110, as Attorney for the Defendant, complete copies of any and all records concerning or relating to Jue Zhang, SSN: 026-82-5752, DOB: 12/6/73, Country of Birth: China, including but not limited to visa, consular, passport, and medical records, upon the payment of a reasonable fee.

By the Court

\_\_\_\_\_  
Justice of the District Court

Dated: \_\_\_\_\_



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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JUE ZHANG,	)	
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By the Court

\_\_\_\_\_  
Justice of the District Court

Dated: \_\_\_\_\_

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Defendants.	)	
_____	)	

**ORDER FOR INSPECTION AND COPYING OF RECORDS**

It is hereby ordered that the Keeper of Records for the Department of Homeland Security, U.S. Citizenship and Immigration Services, FOIA/PA, 111 Massachusetts Avenue, Washington, D.C. 20529, or the person or persons in charge of these records, shall furnish to Jennifer Boyd Herlihy, Esq., of Adler, Cohen, Harvey, Wakeman & Guekguezian, LLP, 75 Federal Street, Floor 10, Boston, MA, 02110, as Attorney for the Defendant, complete copies of any and all records concerning or relating to Jue Zhang, SSN: 026-82-5752, DOB: 12/6/73, Country of Birth: China, including but not limited to records relating to pending applications, visa petition approval, records of naturalization, and proof of status, upon the payment of a reasonable fee.

By the Court

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Justice of the District Court

Dated: \_\_\_\_\_

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By the Court

\_\_\_\_\_  
Justice of the District Court

Dated: \_\_\_\_\_

117JPC

**Time of Request:** Tuesday, November 07, 2006 10:00:16 EST  
**Client ID/Project Name:** 08400-171  
**Number of Lines:** 96  
**Job Number:** 1861:128357757

Research Information

**Service:** Terms and Connectors Search  
**Print Request:** Current Document: 15  
**Source:** MA State Cases, Combined  
**Search Terms:** agnes & bond

**Send to:** HERLIHY, JENNIFER  
ADLER COHEN HARVEY WAKEMAN & GUEKGUEZIAN  
75 FEDERAL ST  
BOSTON, MA 02110-1913